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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, Plaintiff, vs. ROLANDO VARGAS, Defendant.	1:19-CR-02058-SMJ-3 United States' Response to Defendant's Motion for Severance

Plaintiff, United States of America, by and through William D. Hyslop, United States Attorney for the Eastern District of Washington, Patrick J. Cashman, Assistant United States Attorney for the Eastern District of Washington, submits the following Response to Defendant's Motion for Severance. (ECF No. 95). The United States respectfully submits in response to the Defendant's motion the more appropriate Defendant to be severed is co-Defendant Juanita Ramirez, thus rendering the Defendant's motion as moot.

I. Introduction

On November 19, 2019, the Defendant was indicted by a grand jury sitting in the Eastern District of Washington of the sole count of Carjacking, in violation of 18 U.S.C. §§ 2119, 2. (ECF No. 1).

United States' Response to Defendant's Motion for Severance – 1

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On March 20, 2020, the Defendant filed a motion to sever his case from the other defendants. (ECF No. 95). The Defendant requests the severance because a co-Defendant, Juanita Ramirez, made an incriminating statement about her involvement and the involvement of the Defendant in the offense. For the reasons set forth herein, the United States submits that the Defendant's motion should be denied as the issue is moot.

II. The Facts of the Instant Case

The Defendant has been charged in the Eastern District of Washington with one count of Carjacking, in violation of 18 U.S.C. §§ 2119, 2. The indictment arises from conduct that occurred on July 31, 2019, wherein the Defendant and others, both indicted and unindicted, violently assaulted the victim and stole his vehicle.

On August 1, 2019, one co-defendant, Juanita Ramirez, was arrested driving a white Chrysler 300. This vehicle was used in the commission of the indicted offense. Subsequently, Ms. Ramirez, in a post-*Miranda* statement, detailed her involvement in the offense. Additionally during her interview, Ms. Ramirez, implicated other individuals, including the Defendant Vargas.

III. United States' Position on Severance

The United States submits the severance is not necessary regarding Defendant Vargas because co-Defendant Juanita Ramirez should be tried separately from the remaining Defendants. By severing Ms. Ramirez's case from all other cases, any *Bruton* issues arising from the admission of her confession to law enforcement are resolved. *Bruton v. United States*, 88 S.Ct. 1620 (1995). Furthermore, the United States does not anticipate seeking the admission of Ms. Ramirez's statement in its case-in-chief against the remaining Defendants. *See* Fed. R. Evid. 801(d)(2)(E) (statement was not made during in furtherance of the conspiracy).

United States' Response to Defendant's Motion for Severance – 2

1 Therefore, by severing Ms. Ramirez from the remaining Defendants and

2 removing the *Bruton* issue, the interests of judicial economy warrant the continued

3 joinder of the remaining Defendants: (1) Navarrete; (2) Trevino (who remains in

4 State custody due to unrelated pending State charges); (3) Vargas; and (4) Bybee.

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7 Dated: March 26, 2020.

8 William D. Hyslop
   United States Attorney

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11 *s/ Patrick J. Cashman*
    Patrick J. Cashman

12 Assistant United States Attorney

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United States' Response to Defendant's Motion for Severance – 3

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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Kenneth Therrien: kentherrien@msn.com
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s/ Patrick J. Cashman
Patrick J. Cashman
Assistant United States Attorney

United States' Response to Defendant's Motion for Severance – 4